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Comments about this file:

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OTHER 47
PROPOSED REGULATIONS
20 AAC 25.001

- | | | |
|----|--------------------|--|
| 1. | September 16, 2003 | Fax from AG Office R. Mintz re: Unocal's Application under SB 185 |
| 2. | ----- | Alternate Compliance and Waivers |
| 3. | October 02, 2003 | Public Notice |
| 4. | November 03, 2003 | E-mail re: revision1 to Alternate Compliance and Waivers |
| 5. | November 12, 2003 | E-mail submittal of AOGA comments on Proposed Regulations 20 AAC 25.001, Alternate Compliance and Waivers |
| 6. | November 12, 2003 | Revised submittal of AOGA comments on Proposed Regulations 20 AAC 25.001, Alternate Compliance and Waivers |
| 7. | November 13, 2003 | Sign in sheet for Public Hearing |
| 8. | November 13, 2003 | Transcript of Proceedings |

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ALASKA OIL AND GAS CONSERVATION COMMISSION
PUBLIC HEARING

In Re:)
)
Proposed Regulations)
20 AAC 25.001)
Alternate Compliance and Waivers.)
)

TRANSCRIPT OF PROCEEDINGS

Anchorage, Alaska
November 18, 2003
9:04 o'clock a.m.

COMMISSIONERS:

SARAH PALIN, Chairperson
DAN SEAMOUNT

ALSO PRESENT:

ROBERT MINTZ
Assistant Attorney General

* * * *

NOV 19 2003

METRO COURT REPORTING

745 West Fourth Avenue, Suite 425

Anchorage, Alaska 99501

(907) 276-3876

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DISCUSSION Pages 6-7
CLOSING REMARKS BY CHAIRPERSON PALIN Page 8

* * * *

1 CHAIR PALIN: Okay. All right. We would
2 accept that testimony now. Mark, if you're ready, if you'll
3 come forward. Thank you.

4 MR. WORCESTER: Yes. My name is Mark
5 Worcester. I'm an attorney with Conoco Phillips but I'm
6 speaking today on behalf of AOGA. I will not read the
7 comments that we have submitted. I figure you folks are quite
8 capable of doing that. I would like to point out an error in
9 the citation to the new federal regulation. I apologize for
10 that. We'll submit a corrected copy. But the current federal
11 regulation on this topic is at 30 CFR 250.141 and 142, instead
12 of .241 and .242 as indicated in the letter. I have a copy
13 here today and we can make some for you if you wish to have a
14 copy. I did not append the actual copies from the Code of
15 Federal Regulations.

16 I just thought instead of reading it I would reiterate
17 a few of the points that we made. And if there are any
18 questions about them from the Commission, I'll attempt to
19 respond to them.

20 Basically, we see this regulation proposal as a
21 solution looking for a problem. We just -- we really don't
22 see a problem with the current regulations that -- the current
23 system that's been used by the Commission has been quite
24 adequate to provide the necessary flexibility from the --
25 either the pool rules or statewide rules on a case-by-case

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1 basis where the Commission has felt it appropriate under its
2 general statutory language and constraints. And so in the
3 absence of a problem, we're a little wary of attempting to
4 insert what is basically a former federal regulation, and that
5 language here which might restrict rather than ease the
6 Commission's ability to do the right thing in a case-by-case
7 basis. And that's particularly true since the federal system
8 does not have a pool rule system. We have statewide rules in
9 Alaska, but almost every pool has pool rules that are
10 essentially exceptions from the statewide rule. And there's
11 no need in the statute now that there be an equivalence or
12 something like that be proven before a pool rule be done. But
13 this -- unlike in the federal system there's a particularized
14 scrutiny of each pool and then pool-specific and pool-
15 appropriate rules are made. And we think that's a very good
16 system here where we tend to have large pools, and this rather
17 particularized scrutiny has worked well as far as for both the
18 industry and the Commission.

19 The other thing that I guess I wanted to note was that
20 the federal practice has actually changed. The regulation
21 that served as the basis for this proposal is no longer the
22 current federal proposal regulation. And we think there's
23 more flexibility under the current federal regulation than
24 there was under the one that was used as the basis for this
25 proposal.

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1 Finally, if some regulation is adopted on this
2 subject, we believe it should be in the general provisions,
3 and we'd suggest right after the section on pool rules would
4 be the appropriate place rather than in the first section of
5 the regulations which deals specifically and solely with
6 drilling practices. With that I'll be quiet unless you have a
7 particular question you'd like to ask.

8 CHAIR PALIN: Any questions for Mark?

9 COMMISSIONER SEAMOUNT: Looking at your
10 proposed wording and the Commission's proposed wording, is the
11 main difference about the standards for waivers determination,
12 yours would be consistency with the statute, and the
13 Commission's would be equivalence to the existing regulations?

14 MR. WORCESTER: That is probably the
15 substantive difference.

16 COMMISSIONER SEAMOUNT: Okay.

17 MR. WORCESTER: Yes. There would be more
18 discretion in the language we provided to do whatever is
19 appropriate under the general statutory powers of the
20 Commission, and not have to match -- prove equivalence with
21 the existing regulation.

22 COMMISSIONER SEAMOUNT: Okay. Mr. Worcester,
23 under -- on page two, what is it, subsection 1, the first
24 sentence says we understand the Commission is inclined to
25 delete subsection B. Could I ask you where you got that

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1 information?

2 MR. WORCESTER: That was hearsay information
3 that I got from Chris Phillips after a conversation with Randy
4 Ruedrich last week. So.....

5 COMMISSIONER SEAMOUNT: That's what I was
6 afraid of.

7 CHAIR PALIN: Okay.

8 MR. WORCESTER: Then I think we may have
9 received a -- I saw something that just had that subsection
10 without the others attached to it but I don't -- that's why we
11 did not state it as a fact. I did not know if it had actually
12 been renoticed or not.

13 CHAIR PALIN: Okay, thank you. Good.

14 MR. WORCESTER: Thank you.

15 CHAIR PALIN: Okay. Thank you, Mark, for your
16 testimony. And hearing and seeing no additional comments in
17 consideration of AOGA's written comments and your oral
18 testimony there, Mark, I would recommend that we recess for
19 approximately 10 minutes so that we can discuss this unless
20 there's objection from my fellow Commissioner.

21 COMMISSIONER SEAMOUNT: No objection.

22 CHAIR PALIN: Okay. We will recess then for
23 10 minutes and we'll be back then. Off record.

24 (Off record 9:11 a.m.)

25 (On record 9:26 a.m.)

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1 CHAIR PALIN: We're back on record then. Are
2 there any other questions or comments, Commissioner? Okay.

3 COMMISSIONER SEAMOUNT: I have none.

4 CHAIR PALIN: I have none either. Then after
5 reading and hearing testimony from AOGA and AOGA rep, we will
6 consider it as testimony, and we thank you very much for it.
7 It's our intention to consider this and to take this up in our
8 future public meeting which has not been scheduled yet, but
9 we're not ready then to propose a motion on this and to adopt
10 it. So we thank you very much for your testimony and for
11 taking the time to share with us this information.

12 And with that then, we can adjourn this meeting, and
13 we'll probably see you at our next public meeting when this
14 is -- okay. Thank you.

15 (Off record 9:27 a.m.)

16 * * * END OF PROCEEDING * * *
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C E R T I F I C A T E

SUPERIOR COURT)
) ss.
STATE OF ALASKA)

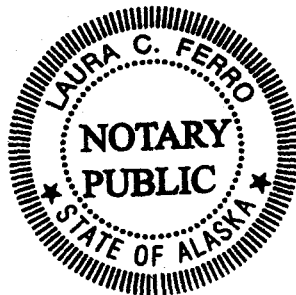
I, Laura C. Ferro, Notary Public in and for the State of Alaska, do hereby certify:

THAT the annexed and foregoing pages numbered 3 through 8 contain a full, true and correct transcript of the Public Hearing before the Alaska Oil and Gas Conservation Commission, taken by and transcribed by myself;

THAT the Transcript has been prepared at the request of the Alaska Oil and Gas Conservation Commission, 333 West Seventh Avenue, Anchorage, Alaska;

DATED at Anchorage, Alaska this 13th day of November, 2003.

SIGNED AND CERTIFIED TO BY:



Laura C. Ferro
Laura C. Ferro
Notary in and for Alaska
My Commission Expires:06/03/05

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745 West Fourth Avenue, Suite 425
Anchorage, Alaska 99501
(907) 276-3876



PROPOSED REGULATIONS
20 AAC 25.001
ALTERNATE COMPLIANCE AND WAIVERS
November 13, 2003 at 9:00 am

(PLEASE PRINT)		
Theresa Rockhill	ACGA	no
Mark Worrester	CPA	yes

#

6

Revised



Alaska Oil and Gas Association
121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907)272-1481 Fax: (907)279-8114

November 12, 2003

Commissioner Sarah Palin
Chair
Alaska Oil and Gas Conservation Commission
333 W. 7th Avenue, Suite 100
Anchorage, AK 99501

Commissioner Dan Seamont
Alaska Oil and Gas Conservation Commission
333 W. 7th Avenue, Suite 100
Anchorage, AK 99501

AOGA Comments on Proposed Regulations
20 AAC 25.001, Alternate Compliance and
Waivers

Dear Commissioners:

The Alaska Oil & Gas Association (AOGA) appreciates the opportunity to provide comments to the Alaska Oil and Gas Conservation Commission ("commission") on proposed regulation changes in Title 20, Chapter 25, of the Alaska Administrative Code, dealing with variances and waivers.

As you are aware, AOGA is a private, non-profit trade association whose 18 member companies account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in Alaska.

The public notice indicates that the AOGCC is proposing to amend the regulations to add a new 20 AAC 25.001, and make conforming changes to various other sections. AOGA believes that the proposed change is unnecessary, may have unintended adverse consequences, is not reflective of current federal practice, and is more appropriately located in another article of the regulations. We offer some alternative language that avoids these problems, in case the commission wishes to proceed with adoption of regulations on this topic.

Discussion

AOGA does not understand the need for a change in the regulations. At present, the regulations provide an appropriate and workable balance between specific rules, performance standards, and mechanisms for approval of alternative methods of compliance, variances and waivers. We are unaware of any specific situation where the commission was precluded under the current regulations from accommodating a reasonable request to use an alternative method of compliance or to obtain a reasonable variance or waiver of a regulatory requirement.

We are concerned that the regulatory change may have unintended consequences. In particular, this regulation could be interpreted to restrict the commission's discretion to issue individualized orders or adopt pool-wide or area-wide rules that are consistent with and necessary to effectuate the purposes of AS 31.05. The standards under the proposed regulations measure alternative methods of compliance against existing regulations, not against the more general standards set

forth in the statute. Nor is the proposed rule consistent with the discretion provided in most pool rules and area-wide orders to administratively waive or amend a rule as long as the change is based on sound engineering principles and does not promote waste or jeopardize correlative rights.¹

We also urge the commission to use care before incorporating federal precedent. First, MMS does not use pool rules to create fit-for-purpose variations from its rules of general application, with the consequence that the federal rules on alternative methods of compliance, variances and waivers require adjustment to accommodate the Alaskan practice of adopting pool rules and area injection orders that vary the requirements found in the "statewide rule" on a case-by-case basis. Second, the original proposal for the proposed new regulation was based on the assumption that it reflected the "approach used successfully by MMS." However, the cited regulation, 30 CFR 250.103, is not the current regulation. 30 CFR 250.103 was repealed and replaced by 30 CFR 250.141 - .142 at the end of 1999. Most notably, the "necessity" standard for a departure under the former 30 CFR 250.103(a) is removed from the replacement regulation, 30 CFR 250.142.²

If the commission elects to adopt a new regulation on this subject, we suggest language more like the following:

20 AAC 25.521. ALTERNATE COMPLIANCE AND WAIVERS.

(a) The commission will consider the use of alternative techniques, procedures, equipment, or activities other than those prescribed in the regulations of this chapter. Generally, such other techniques, procedures, equipment, or activities should afford a degree of protection, safety, or performance equal to or better than that intended to be achieved by the regulations of this chapter. A request for the use of alternative techniques, procedures, equipment, or activities must be provided in writing and accompanied by a justification of the proposal. Written approval from the commission is required prior to use.

¹ We understand that the commission is inclined to delete subsection (b) from the proposed new Section 20 AAC 25.001. While we support the concept, we are concerned that there may be some ambiguity about the distinction between an "alternative technique, procedure, equipment or activity" and a "waiver " or "variance" from a requirement of the regulations. The commission should be careful to avoid adoption of a regulation that would allow a court to disallow a judgment of the commission to allow a variance or waiver that is consistent with its duties under AS 31.05 based upon the court's determination that the variance constitutes an "alternative technique, procedure, equipment or activity" that could be allowed only upon finding of "equivalence" to the statewide rule.

² The former 30 CFR 250.103 (b) read.

The appropriate MMS official may prescribe or approve departures from the operating requirements of the regulations of this part when such departures are necessary for the proper control of a well, the facilitation of the proper development of a lease, the conservation of natural resources, or the protection of life (including fish and other aquatic life), property or the environment.

The current counterpart, 30 CFR 250.142 reads:

How do I receive approval for departures? We may approve departures to the operating requirements. You may apply for a departure by writing to the District or Regional Supervisor.

(b) The commission may approve variances or waivers from the requirements of the regulations of this chapter when such waivers are consistent with AS 31.05 and appropriate for the proper control of a well, the facilitation of the proper development of a lease, the conservation of natural resources, or the protection of correlative rights.

(c) Approval of alternative techniques, procedures, equipment, activities, variances or waivers may be made on a pool-wide or area-wide basis in pool rules adopted under 25 AAC 25.520 and area injection orders under 20 AAC 25.460.

(Eff. __/__/__, Register _____)
Authority: AS 31.05.030

Please note that we propose that any regulation on this subject be located in Article 6 (General Provisions”) of the regulations, not Article 1 (Drilling), as its scope is not limited to drilling regulations. We suggest that it would be appropriately numbered as 20 AAC 25.521, immediately after the section on pool rules.

We will be attending the November 13, 2003 AOGCC hearing regarding the proposed regulations. Should you or any of your colleagues have any questions regarding our recommendations, we will be happy to address them at that time.

Thank you again for this opportunity to express our concerns and to provide our recommendations.

Sincerely,

Chris Phillips
Chairman,
AOGCC Task Group



Subject: AOGA Written Comments on AOGCC Proposed Regulations 20 AAC 25.001

Date: Wed, 12 Nov 2003 10:45:10 -0900

From: Theresa Rockhill <rockhill@aoga.org>

To: Jody Colombie <jody_colombie@admin.state.ak.us>

CC: Vaughn Vennerberg <vaughn_vennerberg@xtoenergy.com>,
Barbara Fullmer <barbara.f.fullmer@conocophillips.com>,
Chris Phillips <phillicj@bp.com>, Doug Marshall <dmarshall@sarcomgs.com>,
'Faye Sullivan' <sullifw@unocal.com>, Gary Laughlin <galaughlin@marathonoil.com>,
"Gunkel, Fritz" <GunkelFP@BP.com>, Harry Engel <engelhr@bp.com>,
Jerome Eggemeyer <Jerome.C.Eggemeyer@conocophillips.com>,
Jerry Dethlefs <Jerry.C.Dethlefs@conocophillips.com>, Ken Boyd <kenbo@gci.net>,
Kevin Tabler <tablerk@unocal.com>, "Lambe, Steven S." <SSLambe@MarathonOil.com>,
Lindsey Dingmore <Lindsey_Dingmore@xtoenergy.com>,
Mark Hanley <mark_hanley@anadarko.com>,
Mark Worcester <Mark.P.Worcester@conocophillips.com>,
"Michael. R. Johnson (E-mail)" <michael.r.johnson@exxonmobil.com>,
Mike Barker <mike.barker@exxonmobil.com>, Nina Hutton <nina_hutton@xtoenergy.com>,
Phil Krueger <PKrueger@unocal.com>, Rob Dragnich <rob.g.dragnich@exxonmobil.com>,
Tom Reese <reese@sarcomgs.com>,
Tommy Thompson <tommy_thompson@anadarko.com>,
Tamara Sheffield <sheffield@aoga.org>, Judy Brady <brady@aoga.org>,
Marilyn Crockett <crockett@aoga.org>

Jody,

Attached is a copy of AOGA's written comments to AOGCC's proposed regulations 20 AAC 25.001, Alternate Compliance and Waivers.

Please provide a copy of these comments to the Commissioners prior to tomorrow's public hearing. An AOGA representative will be in attendance at the public hearing to present these comments.

Thanks.

Theresa

Theresa Rockhill

ALASKA OIL AND GAS ASSOCIATION


121 W. Fireweed Lane, Suite 207

Anchorage, Alaska 99503

Phone: 907-272-7424

Fax: 907-279-8114

email: rockhill@aoga.org

 <u>AOGA written comments to AOGCC re variances and waivers 11.12.03.doc</u>	Name: AOGA writt comments t re variances waivers 11. Type: WINWORD (application/ Encoding: base64
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Alaska Oil and Gas Association
121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907)272-1481 Fax: (907)279-8114

November 12, 2003

Commissioner Sarah Palin
Chair
Alaska Oil and Gas Conservation Commission
333 W. 7th Avenue, Suite 100
Anchorage, AK 99501

Commissioner Dan Seamount
Alaska Oil and Gas Conservation Commission
333 W. 7th Avenue, Suite 100
Anchorage, AK 99501

AOGA Comments on Proposed Regulations
20 AAC 25.001, Alternate Compliance and
Waivers

Dear Commissioners:

The Alaska Oil & Gas Association (AOGA) appreciates the opportunity to provide comments to the Alaska Oil and Gas Conservation Commission ("commission") on proposed regulation changes in Title 20, Chapter 25, of the Alaska Administrative Code, dealing with variances and waivers.

As you are aware, AOGA is a private, non-profit trade association whose 18 member companies account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in Alaska.

The public notice indicates that the AOGCC is proposing to amend the regulations to add a new 20 AAC 25.001, and make conforming changes to various other sections. AOGA believes that the proposed change is unnecessary, may have unintended adverse consequences, is not reflective of current federal practice, and is more appropriately located in another article of the regulations. We offer some alternative language that avoids these problems, in case the commission wishes to proceed with adoption of regulations on this topic.

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We also urge the commission to use care before incorporating federal precedent. First, MMS does not use pool rules to create fit-for-purpose variations from its rules of general application, with the consequence that the federal rules on alternative methods of compliance, variances and waivers require adjustment to accommodate the Alaskan practice of adopting pool rules and area injection orders that vary the requirements found in the "statewide rule" on a case-by-case basis. Second, the original proposal for the proposed new regulation was based on the assumption that it reflected the "approach used successfully by MMS." However, the cited regulation, 30 CFR 250.103, is not the current regulation. 30 CFR 250.103 was repealed and replaced by 30 CFR 250.241 - .242 at the end of 1999. Most notably, the "necessity" standard for a departure under the former 30 CFR 250.103(a) is removed from the replacement regulation, 30 CFR 250.242.²

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¹ We understand that the commission is inclined to delete subsection (b) from the proposed new Section 20 AAC 25.001. While we support the concept, we are concerned that there may be some ambiguity about the distinction between an "alternative technique, procedure, equipment or activity" and a "waiver" or "variance" from a requirement of the regulations. The commission should be careful to avoid adoption of a regulation that would allow a court to disallow a judgment of the commission to allow a variance or waiver that is consistent with its duties under AS 31.05 based upon the court's determination that the variance constitutes an "alternative technique, procedure, equipment or activity" that could be allowed only upon finding of "equivalence" to the statewide rule.

² The former 30 CFR 250.103 (b) read.

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How do I receive approval for departures? We may approve departures to the operating requirements. You may apply for a departure by writing to the District or Regional Supervisor.

(b) The commission may approve variances or waivers from the requirements of the regulations of this chapter when such waivers are consistent with AS 31.05 and appropriate for the proper control of a well, the facilitation of the proper development of a lease, the conservation of natural resources, or the protection of correlative rights.

(c) Approval of alternative techniques, procedures, equipment, activities, variances or waivers may be made on a pool-wide or area-wide basis in pool rules adopted under 25 AAC 25.520 and area injection orders under 20 AAC 25.460.

(Eff. __/__/__, Register _____)

Authority: AS 31.05.030

Please note that we propose that any regulation on this subject be located in Article 6 (General Provisions") of the regulations, not Article 1 (Drilling), as its scope is not limited to drilling regulations. We suggest that it would be appropriately numbered as 20 AAC 25.521, immediately after the section on pool rules.

We will be attending the November 13, 2003 AOGCC hearing regarding the proposed regulations. Should you or any of your colleagues have any questions regarding our recommendations, we will be happy to address them at that time.

Thank you again for this opportunity to express our concerns and to provide our recommendations.

Sincerely,

Chris Phillips
Chairman,
AOGCC Task Group

#4

Subject: Alternate Compliance and Waivers

Date: Mon, 03 Nov 2003 10:22:08 -0900


From: jody_colombie@admin.state.ak.us

Organization: Alaska Oil and Gas Conservation Commission

To: rockhill <rockhill@aoga.org>

Teresa, please find attached revision 1 to be "Waivers and Variance"
Proposed Regulation.

Jody

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MEMORANDUM

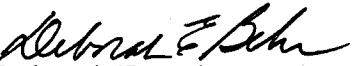
State of Alaska
Department of Law

To: Sarah Palin, Chair
Alaska Oil and Gas Conservation
Commission

Date: October 13, 2003

File No.: 993-04-0085

Tel. No.: 465-3600

From: 
Deborah E. Behr
Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Re: Regulations File Opening Re:
AOGCC: Variances; Waivers;
Certification of Production
Volumes
(20 AAC 25)

We have received the commission's memorandum of October 3, 2003 regarding this project, along with a copy of the proposed regulations. The project has been assigned to Assistant Attorney General Rob Mintz, phone number 269-5100.

Our department's file number for this project is 993-04-0085. This file number should be used on any further correspondence pertaining to this project.

DEB:pvp

cc: Kevin Jardell, Regulations Contact
Dept. of Administration

Jody Colombie
Alaska Oil & Gas Conservation Commission
Dept. of Administration

Robert Pearson, AAC Coordinator
Lt. Governor's Office

Wilson Condon, Supervising Attorney
Oil, Gas & Mining Section

Rob Mintz
Assistant Attorney General
Anchorage

MEMORANDUM

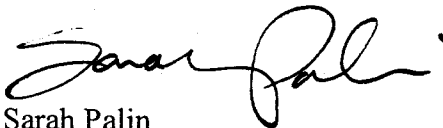
STATE OF ALASKA

ALASKA OIL AND GAS CONSERVATION COMMISSION

TO: Deborah E. Behr
Assistant Attorney General
And Regulations Attorney
Legislation and Regulations Section

DATE: October 3, 2003

SUBJECT: File-opening request for
new regulations project
on variances and waivers
and on certification of
production volumes under
sec. 1, ch. 59, SLA 2003



FROM: Sarah Palin
Chair

We are requesting that you open a new file for a regulations project regarding changes in Title 20, Chapter 25, of the Alaska Administrative Code, dealing with variances and waivers and with certification of production volumes under sec. 1, ch. 59, SLA 2003.

Enclosed is a copy of the public notice, Additional Regulations Notice Information, and a draft of the regulation.

Please assign assistant attorney general Robert Mintz to this project. Our contact person for the project is Jody Colombie at 793-1221.

SP/jjc

STATE OF ALASKA
NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE
ALASKA OIL AND GAS CONSERVATION COMMISSION

The Alaska Oil and Gas Conservation Commission ("AOGCC") proposes to adopt regulation changes in Title 20, Chapter 25, of the Alaska Administrative Code, dealing with variances and waivers and with Commission certification of certain production volumes, including the following:

a general variance and waiver provision would replace specific provisions in numerous sections of the AOGCC's current regulations; and

provisions would be established to implement the AOGCC's authority under sec. 1, ch. 59, SLA 2003 to certify certain production volumes.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by writing to AOGCC, 333 W. 7th Avenue, Suite 100, Anchorage, AK 99501. The comments must be received no later than 4:30 p.m. on November 18, 2003.

Additionally, oral or written comments may be submitted at a hearing to be held on November 13, 2003, at 333 W. 7th Avenue, Suite 100, Anchorage, AK 99501. The hearing will begin at 9:00 a.m. and might be extended from day to day if necessary to accommodate those present before 9:30 a.m. who did not have an opportunity to comment.

If you are a person with a disability who may need a special accommodation, auxiliary aid or service, or alternative communication format in order to participate in the process on the proposed regulation, please contact Jody Colombie at 793-1221 by 4:00 p.m., November 7, 2003 to ensure that any necessary accommodations can be provided.

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<http://www.aogcc.alaska.gov>.

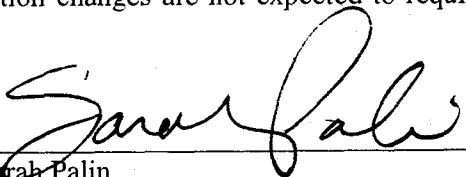
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Statutory Authority: AS 31.05.030; AS 31.05.040..

Statutes Being Implemented, Interpreted, or Made Specific: AS 31.05.030.


Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

Date: October 3, 2003



Sarah Palin
Chair, Alaska Oil and Gas Conservation Commission

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alaska Oil and Gas Conservation Commission.
2. General subject of regulations: variances and waivers, and certification of production volumes under sec. 1, ch. 59, SLA 2003
3. Citation of regulations: 20 AAC 25.
4. Reason for the proposed action: to provide for uniform treatment of variances and waivers in regulations, and to implement new legislation
5. Program category and BRU affected: Alaska Oil and Gas Conservation Commission.
6. Cost of implementation to the state agency: zero.
7. The name of the contact person for the regulations Jody Colombie, Alaska Oil and Gas Conservation Commission, 333 W. 7th Avenue, Suite 100, Anchorage, AK 99501, (907) 793-1221.
8. The origin of the proposed action: state agency.
9. Date: October 3, 2003
10. Prepared by: 
Jody Colombie
Special Staff Assistant
Alaska Oil and Gas Conservation Commission
(907) 793-1221



STATE OF ALASKA
ADVERTISING
ORDER

NOTICE TO PUBLISHER

INVOICE MUST BE IN TRIPLICATE SHOWING ADVERTISING ORDER NO., CERTIFIED
AFFIDAVIT OF PUBLICATION (PART 2 OF THIS FORM) WITH ATTACHED COPY OF
ADVERTISEMENT MUST BE SUBMITTED WITH INVOICE

ADVERTISING ORDER NO.

AO-02414009

SEE BOTTOM FOR INVOICE ADDRESS

F R O M	AOGCC 333 W 7th Ave, Ste 100 Anchorage, AK 99501 -	AGENCY CONTACT Jody Colombie PHONE (907) 793-1221	DATE OF A.O. October 2, 2003 PCN
	T O Anchorage Daily News P O Box 149001 Anchorage, AK 99514	DATES ADVERTISEMENT REQUIRED: October 3, 2003 THE MATERIAL BETWEEN THE DOUBLE LINES MUST BE PRINTED IN ITS ENTIRETY ON THE DATES SHOWN. SPECIAL INSTRUCTIONS: Advertisement to be published was e-mailed	

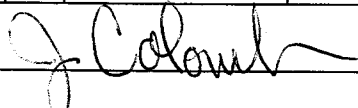
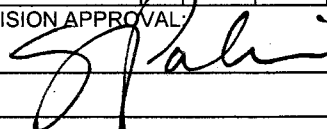
Type of Advertisement ☒ Legal ☐ Display ☐ Classified ☐ Other (Specify)

SEE ATTACHED

SEND INVOICE IN TRIPLICATE TO	AOGCC, 333 W. 7th Ave., Suite 100 Anchorage, AK 99501	PAGE 1 OF 2 PAGES	TOTAL OF ALL PAGES\$
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REF	TYPE	NUMBER	AMOUNT	DATE	COMMENTS
1	VEN				
2	ARD	02910			
3					
4					

FIN	AMOUNT	SY	CC	PGM	LC	ACCT	FY	NMR	
								DIST	LIO
1		04	02140100			73540			
2									
3									
4									

REQUISITIONED BY:		DIVISION APPROVAL:	

Anchorage Daily News
Affidavit of Publication

1001 Northway Drive, Anchorage, AK 99508

10/6/2003

AD #	DATE	PO	ACCOUNT	PRICE PER DAY	OTHER CHARGES	OTHER CHARGES #2	OTHER CHARGES #3	OTHER CHARGES #4	OTHER CHARGES #5	GRAND TOTAL
964431	10/03/2003	02414009	STOF0330	\$236.88	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$236.88

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Teresita Peralta, being first duly sworn on oath deposes and says that she is an advertising representative of the Anchorage Daily News, a daily newspaper.

That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on the above dates and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

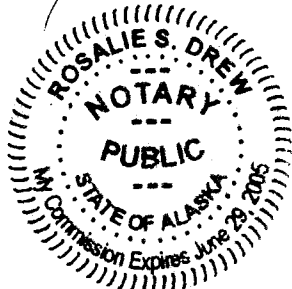
Signed

Subscribed and sworn to me before this date:

10/7/03

Notary Public in and for the State of Alaska.
Third Division. Anchorage, Alaska

MY COMMISSION EXPIRES: 6/29/05



STATE OF ALASKA
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Date: October 3, 2003
Sarah Palin
Chair, Alaska Oil and Gas Conservation Commission
AO: 02414009

Publish: October 3, 2003

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ADVERTISING
ORDER**

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ADVERTISEMENT MUST BE SUBMITTED WITH INVOICE

ADVERTISING ORDER NO.

AO-02414009

SEE BOTTOM FOR INVOICE ADDRESS

**F
R
O
M** AOGCC
333 West 7th Avenue, Suite 100
Anchorage, AK 99501
907-793-1221

AGENCY CONTACT

Jody Colombie

PHONE

(907) 793 -1221

DATE OF A.O.

October 2, 2003

PCN

DATES ADVERTISEMENT REQUIRED:

October 3, 2003

**THE MATERIAL BETWEEN THE DOUBLE LINES MUST BE PRINTED IN ITS
ENTIRETY ON THE DATES SHOWN.**

SPECIAL INSTRUCTIONS:

AFFIDAVIT OF PUBLICATION

United states of America

State of _____ ss

_____ division.

Before me, the undersigned, a notary public this day personally appeared

_____ who, being first duly sworn, according to law, says that

he/she is the _____ of _____

Published at _____ in said division _____ and

state of _____ and that the advertisement, of which the annexed

is a true copy, was published in said publication on the _____ day of

_____ 2003, and thereafter for _____ consecutive days, the last

publication appearing on the _____ day of _____, 2003, and that

the rate charged thereon is not in excess of the rate charged private

individuals.

Subscribed and sworn to before me

This _____ day of _____ 2003,

Notary public for state of _____

My commission expires _____

REMINDER

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THE ADVERTISING ORDER NUMBER.

A CERTIFIED COPY OF THIS AFFIDAVIT OF PUBLICATION
MUST BE SUBMITTED WITH THE INVOICE.

ATTACH PROOF OF PUBLICATION HERE.

SD Dept of Env & Natural Resources
Oil and Gas Program
2050 West Main, Ste 1
Rapid City, SD 57702

Citgo Petroleum Corporation
PO Box 3758
Tulsa, OK 74136

Mary Jones
XTO Energy, Inc.
Cartography
810 Houston Street, Ste 2000
Ft. Worth, TX 76102-6298

David McCaleb
IHS Energy Group
GEPS
5333 Westheimer, Ste 100
Houston, TX 77056

W. Allen Huckabay
ConocoPhillips Petroleum Company
Offshore West Africa Exploration
323 Knipp Forest Street
Houston, TX 77079-1175

Kelly Valadez
Tesoro Refining and Marketing Co.
Supply & Distribution
300 Concord Plaza Drive
San Antonio, TX 78216

Robert Gravely
7681 South Kit Carson Drive
Littleton, CO 80122

George Vaught, Jr.
PO Box 13557
Denver, CO 80201-3557

Jerry Hodgden
Hodgden Oil Company
408 18th Street
Golden, CO 80401-2433

Richard Neahrng
NRG Associates
President
PO Box 1655
Colorado Springs, CO 80901

John Levorsen
200 North 3rd Street, #1202
Boise, ID 83702

Kay Munger
Munger Oil Information Service, Inc
PO Box 45738
Los Angeles, CA 90045-0738

Samuel Van Vactor
Economic Insight Inc.
3004 SW First Ave.
Portland, OR 97201

Michael Parks
Marple's Business Newsletter
117 West Mercer St, Ste 200
Seattle, WA 98119-3960

Trustees for Alaska
1026 West 4th Ave., Ste 201
Anchorage, AK 99501-1980

Mark Wedman
Halliburton
6900 Arctic Blvd.
Anchorage, AK 99502

Schlumberger
Drilling and Measurements
3940 Arctic Blvd., Ste 300
Anchorage, AK 99503

Ciri
Land Department
PO Box 93330
Anchorage, AK 99503

Baker Oil Tools
4730 Business Park Blvd., #44
Anchorage, AK 99503

Jill Schneider
US Geological Survey
4200 University Dr.
Anchorage, AK 99508

Gordon Severson
3201 Westmar Cr.
Anchorage, AK 99508-4336

David Cusato
600 West 76th Ave., #508
Anchorage, AK 99518

Jack Hakkila
PO Box 190083
Anchorage, AK 99519

Kevin Tabler
Unocal
PO Box 196247
Anchorage, AK 99519-6247

Kenai Peninsula Borough
Economic Development Distr
14896 Kenai Spur Hwy #103A
Kenai, AK 99611-7000

Penny Vadla
Box 467
Ninilchik, AK 99639

James Gibbs
PO Box 1597
Soldotna, AK 99669

Kenai National Wildlife Refuge
Refuge Manager
PO Box 2139
Soldotna, AK 99669-2139

Richard Wagner
PO Box 60868
Fairbanks, AK 99706

Cliff Burglin
PO Box 131
Fairbanks, AK 99707

Bernie Karl
K&K Recycling Inc.
PO Box 58055
Fairbanks, AK 99711

North Slope Borough
PO Box 69
Barrow, AK 99723

Williams Thomas
Arctic Slope Regional Corporation
Land Department
PO Box 129
Barrow, AK 99723

Subject: Public Notice**Date:** Fri, 03 Oct 2003 12:01:46 -0800**From:** Jody Colombie <jody_colombie@admin.state.ak.us>**Organization:** Alaska Oil and Gas Conservation Commission

To: Con Bunde <senator_con_bunde@legis.state.ak.us>,
John Cowdery <senator_john_cowdery@legis.state.ak.us>,
Bettye J Davis <senator_bettye_davis@legis.state.ak.us>,
Johnny Ellis JR <senator_johnny_ellis@legis.state.ak.us>,
Kim S Elton <senator_kim_elton@legis.state.ak.us>,
Hollis French <senator_hollis_french@legis.state.ak.us>,
Lyda N Green <senator_lyda_green@legis.state.ak.us>,
Gretchen G Guess <senator_gretchen_guess@legis.state.ak.us>,
Lyman F Hoffman <senator_lyman_hoffman@legis.state.ak.us>,
Georgianna Lincoln <senator_georgianna_lincoln@legis.state.ak.us>,
Scott Ogan <senator_scott_ogan@legis.state.ak.us>,
senator_ben_stevens <senator_ben_stevens@legis.state.ak.us>,
senator_gary_stevens <senator_gary_stevens@legis.state.ak.us>,
senator_robin_taylor <senator_robin_taylor@legis.state.ak.us>,
senator_gene_therriault <senator_gene_therriault@legis.state.ak.us>,
senator_thomas_waggoner <senator_thomas_waggoner@legis.state.ak.us>,
senator_gary_wilken <senator_gary_wilken@legis.state.ak.us>,
representative_mike_chenault <representative_mike_chenault@legis.state.ak.us>,
representative_sharon_cissna <representative_sharon_cissna@legis.state.ak.us>,
representative_john_coghill <representative_john_coghill@legis.state.ak.us>,
representative_harry_crawford <representative_harry_crawford@legis.state.ak.us>,
representative_eric_croft <representative_eric_croft@legis.state.ak.us>,
representative_nancy_dahlstrom <representative_nancy_dahlstrom@legis.state.ak.us>,
representative_fate_hugh <representative_fate_hugh@legis.state.ak.us>,
representative_richard_foster <representative_richard_foster@legis.state.ak.us>,
representative_les_gara <representative_les_gara@legis.state.ak.us>,
representative_carl_gatto <representative_carl_gatto@legis.state.ak.us>,
representative_max_gruenberg <representative_max_gruenberg@legis.state.ak.us>,
representative_david_guttenberg <representative_david_guttenberg@legis.state.ak.us>,
representative_john_harris <representative_john_harris@legis.state.ak.us>,
representative_mike_hawker <representative_mike_hawker@legis.state.ak.us>,
representative_cheryll_heinze <representative_cheryll_heinze@legis.state.ak.us>,
representative_jim_holm <representative_jim_holm@legis.state.ak.us>,
representative_reggie_joule <representative_reggie_joule@legis.state.ak.us>,
representative_mary_kapsner <representative_mary_kapsner@legis.state.ak.us>,
representative_beth_kerttula <representative_beth_kerttula@legis.state.ak.us>,
representative_vic_kohring <representative_vic_kohring@legis.state.ak.us>,
representative_albert_kookesh <representative_albert_kookesh@legis.state.ak.us>,
representative_pete_kott <representative_pete_kott@legis.state.ak.us>,
representative_bob_lynn <representative_bob_lynn@legis.state.ak.us>,
representative_beverly_masek <representative_beverly_masek@legis.state.ak.us>,
representative_lesil_mcguire <representative_lesil_mcguire@legis.state.ak.us>,
representative_kevin_meyer <representative_kevin_meyer@legis.state.ak.us>,
representative_carl_morgan <representative_carl_morgan@legis.state.ak.us>,
representative_carl_moses <representative_carl_moses@legis.state.ak.us>,
representative_dan_ogg <representative_dan_ogg@legis.state.ak.us>,

representative_norman_rokeberg <representative_norman_rokeberg@legis.state.ak.us>,
representative_ralph_samuels <representative_ralph_samuels@legis.state.ak.us>,
representative_paul_seaton <representative_paul_seaton@legis.state.ak.us>,
representative_bill_stoltze <representative_bill_stoltze@legis.state.ak.us>,
representative_bruce_veyhrauch <representative_bruce_veyhrauch@legis.state.ak.us>,
representative_jim_whitaker <representative_jim_whitaker@legis.state.ak.us>,
representative_bill_williams <representative_bill_williams@legis.state.ak.us>,
representative_peggy_wilson <representative_peggy_wilson@legis.state.ak.us>,
representative_kelly_wolf <representative_kelly_wolf@legis.state.ak.us>,
Donny Olson <senator_donny_olson@legis.state.ak.us>,
Ralph Seekins <senator_ralph_seekins@legis.state.ak.us>,
Tom Anderson <representative_tom_anderson@legis.state.ak.us>,
Ethan Berkowitz <representative_ethan_berkowitz@legis.state.ak.us>,
Michael W Miller <michael_miller@admin.state.ak.us>

STATE OF ALASKA

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Statutes Being Implemented, Interpreted, or Made Specific: AS 31.05.030.

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Date: October 3, 2003 _____

Sarah Palin

Chair, Alaska Oil and Gas Conservation Commission

Published: 10/3/03

AO: 02414009

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(AS 44.62.190(d))

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5. Program category and BRU affected: Alaska Oil and Gas Conservation Commission.
6. Cost of implementation to the state agency: zero.
7. The name of the contact person for the regulations Jody Colombie, Alaska Oil and Gas Conservation Commission, 333 W. 7th Avenue, Suite 100, Anchorage, AK 99501, (907) 793-1221.
8. The origin of the proposed action: state agency.
9. Date: October 3, 2003
10. Prepared by: _____
Jody Colombie
Special Staff Assistant
Alaska Oil and Gas Conservation Commission
(907) 793-1221

Subject: Public Notice

Date: Fri, 03 Oct 2003 16:46:04 -0800

From: Jody Colombie <jody_colombie@admin.state.ak.us>

Organization: Alaska Oil and Gas Conservation Commission

To: representative_hugh_fate <representative_hugh_fate@legis.state.ak.us>,
senator_thomas_wagoner <senator_thomas_wagoner@legis.state.ak.us>

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Chair, Alaska Oil and Gas Conservation Commission

Published: 10/3/03
AO: 02414009

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(AS 44.62.190(d))

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8. The origin of the proposed action: state agency.
9. Date: October 3, 2003
10. Prepared by: _____
Jody Colombie
Special Staff Assistant
Alaska Oil and Gas Conservation Commission
(907) 793-1221

Jody Colombie <jody_colombie@admin.state.ak.us>

Subject: Proposed Regulations


Date: Thu, 02 Oct 2003 14:03:53 -0800


From: Jody Colombie <jody_colombie@admin.state.ak.us>

Organization: Alaska Oil and Gas Conservation Commission

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 Stephanie_Ross <Stephanie_Ross@thomson.com>

 Notice.pdf	Name: Notice.pdf Type: Acrobat (application/pdf) Encoding: base64
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 20 AAC 25.doc	Name: 20 AAC 25.doc Type: WINWORD File (application/msword) Encoding: base64
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Jody Colombie <jody_colombie@admin.state.ak.us>

Subject: Notice


Date: Thu, 02 Oct 2003 14:00:13 -0800


From: Jody Colombie <jody_colombie@admin.state.ak.us>

Organization: Alaska Oil and Gas Conservation Commission

To: Legal Ads Anchorage Daily News <legalads@adn.com>

Please publish the attached tomorrow 10-3-03.

 <u>Ad Order form.doc</u>	<p>Name: Ad Order form.doc</p> <p>Type: WINWORD File (application/msword)</p> <p>Encoding: base64</p>
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 <u>Ad-Only_Notice.doc</u>	<p>Name: Ad-Only_Notice.doc</p> <p>Type: WINWORD File (application/msword)</p> <p>Encoding: base64</p>
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Jody Colombie <jody_colombie@admin.state.ak.us>

Subject: Regulation Notice

Date: Thu, 02 Oct 2003 14:00:58 -0800


From: jody_colombie@admin.state.ak.us

Organization: Alaska Oil and Gas Conservation Commission

To: Cynthia B Mciver <bren_mciver@admin.state.ak.us>,
Nancy Norton <Nancy_Norton@admin.state.ak.us>

Please publish on web site.

Jody

 1_Notice_.doc	Name: 1_Notice_.doc Type: WINWORD File (application/msword) Encoding: base64
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State of Alaska
AK Oil & Gas Conservation Commission
333 West 7th Avenue
Anchorage Alaska 99501

Mailed 10/2/03

Legislative Reference Library
Legislative Affairs Agency
State Capitol
Juneau AK 99801-1182
Mail Stop 3101

#2

Register _____, _____

2003 MISCELLANEOUS BOARDS

Revision 1

20 AAC 25 is amended by adding a new section to read:

20 AAC 25.001. ALTERNATE COMPLIANCE AND WAIVERS.

The commission will consider the use of alternative techniques, procedures, equipment, or activities other than those prescribed in the regulations of this chapter; if such other techniques, procedures, equipment, or activities afford a degree of protection, safety, or performance equal to or better than that intended to be achieved by the regulations of this chapter. A request for the use of alternative techniques, procedures, equipment, or activities must be provided in writing and accompanied by sufficient justification to judge the equivalence of the proposal. Written approval from the commission is required prior to use.

(Eff. __/__/__, Register _____)

Authority: AS 31.05.30

20 AAC 25.005(c)(7) is amended to read:

(7) a diagram and description of the diverter system as required by 20 AAC 25.035 [UNLESS THIS REQUIREMENT IS WAIVED BY THE COMMISSION UNDER 20 AAC 25.035(H)(2)];

(Eff. 4/13/80, Register 74; am 4/2/86, Register 97; am 11/7/99, Register 162; am ____/____/____, Register ____)

Authority: AS 31.05.030 AS 31.05.090

20 AAC 25.030(g) is repealed:

Repealed ____/____/____. (Eff. 4/13/80, Register 74; am 4/2/86, Register 97; am 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030

20 AAC 25.033(j) is repealed:

Repealed ____/____/____. (Eff. 4/13/80, Register 74; am 4/2/86, Register 97; am 11/7/99, Register 162; am ____/____/____, Register ____)

Authority: AS 31.05.030

20 AAC 25.035(c)(1)(B) is amended to read:

(B) at least as large as the diameter of the hole to be drilled, unless a pilot hole with a diameter no larger than that of the vent line is drilled first; [THE COMMISSION WILL WAIVE THE REQUIREMENT OF THIS PARAGRAPH IF THE OPERATOR DEMONSTRATES, BASED ON DRILLING EXPERIENCE IN THE NEAR VICINITY, THAT DRILLING A PILOT HOLE WOULD NOT BE NECESSARY FOR SAFETY]

(Eff. 4/13/80, Register 74; am 2/22/81, Register 77; am 4/2/86, Register 97; am 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030

20 AAC 25.035(h) is repealed:

Repealed ____/____/____. (Eff. 4/13/80, Register 74; am 2/22/81 register 77; am 4/2/86, Register 97; am 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030

20 AAC 25.036(f) is repealed:

Repealed ____/____/____. (Eff. 11/7/99, Register 152; am ____/____/____, Register ____)

AUTHORITY: AS 31.05.030

20 AAC 25.050(h) is repealed:

Repealed ____/____/____. (Eff. 4/13/80, Register 74; am 4/2/86, Register 97; am 11/7/99, Register 152; am ____/____/____, Register ____)

AUTHORITY: AS 31.05.030

20 AAC 25.061(c) is repealed:

Repealed ____/____/____. (Eff. 4/13/80, Register 74; am 4/2/86, Register 97; am 11/7/99, Register 152; am ____/____/____, Register ____)

20 AAC 25.066(d)(3) is repealed:

Eff. 11/7/99, Register 152; am 7/18/03, am Register 167, October 2003; am ____/____/____, Register ____)

AUTHORITY: AS 31.05.030

20 AAC 25.112(i) is repealed:

Repealed ____/____/____. (Eff. 11/7/99, Register 152; am ____/____/____, Register ____)

AUTHORITY: AS 31.05.030

20 AAC 25.228(j) is repealed:

Repealed ____/____/____. (Eff. 4/2/86, Register 97; am 11/7/99, Register 152; am ____/____/____, Register ____)

AUTHORITY: AS 31.05.030

20 AAC 25 is amended by adding a new section to read:

20 AAC 25.233. Commission certification of certain production volumes. (a) A lessee that is obligated to pay the state a royalty on oil produced from a platform or field listed in AS 38.05.180(f)(6)(A), (C), (E), or (G) may file with the commission a written request to certify the volume of oil production from the platform or field under AS 31.05.030(k). The request must identify (1) the calendar quarter or quarters during which the volume of oil production was below the applicable threshold under AS 38.05.180(f)(6)(A), (C), (E), or (G) and for which a certification is desired, and (2) one or more prior calendar quarters during which the volume of oil production equaled or exceeded the applicable threshold. The request must be accompanied by an affidavit of a person acquainted with the facts, certifying that the requester complied with (b) of this section and setting out the names and addresses of the persons to whom the notice required under (b) of this section was mailed and the date of mailing.

(b) A lessee intending to file a request under (a) of this section shall send notice of the request, including a copy of the request and a statement of the recipient's rights under (c) of this section, by certified mail to the Department of Natural Resources, Division of Oil and Gas, and to all other lessees that are obligated to pay the state a royalty on oil produced from the platform or field that is the subject of the request.

(c) A person entitled to notice under (b) of this section may file with the commission, no later than 15 days after the date notice was mailed to the person, a statement of the person's position or comments regarding the request, which may include documentary evidence. A person filing a statement shall provide a copy to the requester.

(d) After the time for filing statements under (c) of this section has expired, the commission will determine whether the average daily oil production during a calendar quarter

from the platform or field that is the subject of the request has declined below the applicable threshold under AS 38.05.180(f)(6)(A), (C), (E), or (G) and, if so, will certify to the Department of Natural Resources the average daily oil production volume for the calendar quarter or quarters for which the request is made.

(e) The provisions of 20 AAC 25.540 do not apply to a determination or certification under this section. (Eff. ___/___/___, Register _____)

Authority: AS 31.05.30 AS 31.05.040

20 AAC 25.265(a)(2) is amended to read:

(2) fail-safe automatic surface-controlled subsurface safety valve (SSSV) system capable of preventing an uncontrolled flow [UNLESS ANOTHER TYPE OF SUBSURFACE VALVE WITH THAT CAPABILITY IS APPROVED BY THE COMMISSION] this valve must be in the tubing string and located below the mudline datum or, if permafrost is present, below the permafrost.

(Eff. 4/13/80, Register 74; am 4/2/86, Register 97; am 11/7/99, Register 152; am ___/___/___, Register _____)

Authority: AS 31.05.030 AS 31.05.095

20 AAC 25.285(h) is repealed:

Repealed ___/___/_____. (Eff. 4/2/86, Register 97; am 11/7/99, Register 152; am ___/___/____, Register _____)

AUTHORITY: AS 31.05.030

Register _____, _____

2003 MISCELLANEOUS BOARDS

20 AAC 25.286(g) is repealed:

Repealed ____/____/____. (Eff. 11/7/99, Register 152; am ____/____/____, Register ____)

AUTHORITY: AS 31.05.030

20 AAC 25.287(f) is repealed.

Repealed ____/____/____. (Eff. 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030

20 AAC 25 is amended by adding a new section to read:

20 AAC 25.001. ALTERNATE COMPLIANCE AND APPROVAL

(a) The commission will consider the use of alternative techniques, procedures, equipment, or activities other than those prescribed in this chapter; if such other techniques, procedures, equipment, or activities afford a degree of protection, safety, or performance equal to or better than that intended to be achieved by the regulations of this chapter. A request for the use of alternative techniques, procedures, equipment, or activities must be provided in writing and accompanied by sufficient justification to judge the equivalence of the proposal. Written approval from the commission is required prior to use.

☐ (b) The commission may approve waivers from the requirements of the regulations of this chapter when such waivers ~~are~~ ^{gone} necessary for the proper control of a well, the facilitation of the proper development of a lease, the conservation of natural resources, or the protection of correlative rights. ^{RCR} (Eff. __/__/__, Register _____)

Authority: AS 31.05.30

20 AAC 25.005(c)(7) is amended to read:

(7) a diagram and description of the diverter system as required by 20 AAC 25.035 [UNLESS THIS REQUIREMENT IS WAIVED BY THE COMMISSION UNDER 20 AAC 25.035(H)(2)];

(Eff. 4/13/80, Register 74; am 4/2/86, Register 97; am 11/7/99, Register 162; am ____/____/____,

Register ____)

Authority: AS 31.05.030 AS 31.05.090

20 AAC 25.030(g) is repealed:

Repealed ____/____/____. (Eff. 4/13/80, Register 74; am 4/2/86, Register 97; am 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030

20 AAC 25.033(j) is repealed:

Repealed ____/____/____. (Eff. 4/13/80, Register 74; am 4/2/86, Register 97; am 11/7/99, Register 162; am ____/____/____, Register ____)

Authority: AS 31.05.030

20 AAC 25.035(c)(1)(B) is amended to read:

(B) at least as large as the diameter of the hole to be drilled, unless a pilot hole with a diameter no larger than that of the vent line is drilled first; [THE COMMISSION WILL WAIVE THE REQUIREMENT OF THIS PARAGRAPH IF THE OPERATOR DEMONSTRATES, BASED ON DRILLING EXPERIENCE IN THE NEAR VICINITY, THAT DRILLING A PILOT HOLE WOULD NOT BE NECESSARY FOR SAFETY]

(Eff. 4/13/80, Register 74; am 2/22/81, Register 77; am 4/2/86, Register 97; am 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030

20 AAC 25.035(h) is repealed:

Repealed ____/____/____. (Eff. 4/13/80, Register 74; am 2/22/81 register 77; am 4/2/86, Register 97; am 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030

20 AAC 25.036(f) is repealed:

Repealed ____/____/____. (Eff. 11/7/99, Register 152; am ____/____/____, Register ____)

AUTHORITY: AS 31.05.030

20 AAC 25.050(h) is repealed:

Repealed ____/____/____. (Eff. 4/13/80, Register 74; am 4/2/86, Register 97; am 11/7/99, Register 152; am ____/____/____, Register ____)

AUTHORITY: AS 31.05.030

20 AAC 25.061(c) is repealed:

Repealed ____/____/____. (Eff. 4/13/80, Register 74; am 4/2/86, Register 97; am 11/7/99, Register 152; am ____/____/____, Register ____)

20 AAC 25.066(d)(3) is repealed:

Eff. 11/7/99, Register 152; am 7/18/03, am Register 167, October 2003; am ____/____/____, Register ____)

AUTHORITY: AS 31.05.030

20 AAC 25.112(i) is repealed:

Repealed ____/____/____. (Eff. 11/7/99, Register 152; am ____/____/____, Register ____)

AUTHORITY: AS 31.05.030

20 AAC 25.228(j) is repealed:

Repealed ____/____/____. (Eff. 4/2/86, Register 97; am 11/7/99, Register 152; am ____/____/____, Register ____)

AUTHORITY: AS 31.05.030

20 AAC 25 is amended by adding a new section to read:

20 AAC 25.233. Commission certification of certain production volumes. (a) A lessee that is obligated to pay the state a royalty on oil produced from a platform or field listed in AS 38.05.180(f)(6)(A), (C), (E), or (G) may file with the commission a written request to certify the volume of oil production from the platform or field under AS 31.05.030(k). The request must identify (1) the calendar quarter or quarters during which the volume of oil production was below the applicable threshold under AS 38.05.180(f)(6)(A), (C), (E), or (G) and for which a certification is desired, and (2) one or more prior calendar quarters during which the volume of oil production equaled or exceeded the applicable threshold. The request must be accompanied by an affidavit of a person acquainted with the facts, certifying that the requester complied with (b) of this section and setting out the names and addresses of the persons to whom the notice required under (b) of this section was mailed and the date of mailing.

(b) A lessee intending to file a request under (a) of this section shall send notice of the request, including a copy of the request and a statement of the recipient's rights under (c) of this section, by certified mail to the Department of Natural Resources, Division of Oil and Gas, and to all other lessees that are obligated to pay the state a royalty on oil produced from the platform or field that is the subject of the request.

(c) A person entitled to notice under (b) of this section may file with the commission, no later than 15 days after the date notice was mailed to the person, a statement of the person's position or comments regarding the request, which may include documentary evidence. A person filing a statement shall provide a copy to the requester.

(d) After the time for filing statements under (c) of this section has expired, the commission will determine whether the average daily oil production during a calendar quarter

from the platform or field that is the subject of the request has declined below the applicable threshold under AS 38.05.180(f)(6)(A), (C), (E), or (G) and, if so, will certify to the Department of Natural Resources the average daily oil production volume for the calendar quarter or quarters for which the request is made.

(e) The provisions of 20 AAC 25.540 do not apply to a determination or certification under this section. (Eff. ___/___/___, Register _____)

Authority: AS 31.05.30 AS 31.05.040

20 AAC 25.265(a)(2) is amended to read:

(2) fail-safe automatic surface-controlled subsurface safety valve (SSSV) system capable of preventing an uncontrolled flow [UNLESS ANOTHER TYPE OF SUBSURFACE VALVE WITH THAT CAPABILITY IS APPROVED BY THE COMMISSION] this valve must be in the tubing string and located below the mudline datum or, if permafrost is present, below the permafrost.

(Eff. 4/13/80, Register 74; am 4/2/86, Register 97; am 11/7/99, Register 152; am ___/___/___, Register _____)

Authority: AS 31.05.030 AS 31.05.095

20 AAC 25.285(h) is repealed:

Repealed ___/___/____. (Eff. 4/2/86, Register 97; am 11/7/99, Register 152; am ___/___/___, Register _____)

AUTHORITY: AS 31.05.030

Register _____, _____

2003 MISCELLANEOUS BOARDS

20 AAC 25.286(g) is repealed:

Repealed ____/____/____. (Eff. 11/7/99, Register 152; am ____/____/____, Register ____)

AUTHORITY: AS 31.05.030

20 AAC 25.287(f) is repealed.

Repealed ____/____/____. (Eff. 11/7/99, Register 152; am ____/____/____, Register ____)

Authority: AS 31.05.030

Definitions

Waiver – Techniques, procedures, equipment, or activities that deviate from the operating requirements of the regulations and that are necessary for facilitation of the proper development of the lease and afford an acceptable degree of protection, safety, or performance, usually with specific operating restrictions and limitations (e.g., monitoring)

Alternate Compliance – Techniques, procedures, equipment, or activities other than those prescribed in the regulations and that afford a degree of protection, safety, or performance equal to or better than that intended to be achieved by the regulations.

Affected Regulations

By adopting the proposed regulation “Alternate Compliance and Waivers”, the following existing regulations should be deleted (see attached for details). Where specific language is quoted, the intent is to remove just the reference to the waiver or variance).

- ✓ 20 AAC 25.005(c)(7) – Permit to Drill (“unless this requirement is waived...”)
- ✓ 20 AAC 25.030(g) – Casing and Cementing
- ✓ 20 AAC 25.033(j) – Primary Well Control for Drilling: Drilling Fluid Program and Drilling Fluid System
- ✓ 20 AAC 25.035(c)(1)(B) – Secondary Well Control for Primary Drilling and Completion: Blowout Prevention Equipment and Diverter Requirements (“the commission will waive...”)
- ✓ 20 AAC 25.035(h) – Secondary Well Control for Primary Drilling and Completion: Blowout Prevention Equipment and Diverter Requirements
- ✓ 20 AAC 25.036(f) – Secondary Well Control for Through-Tubing Drilling and Completion: Blowout Prevention Equipment Requirements
- ✓ 20 AAC 25.050(h) – Wellbore Surveys
- ✓ 20 AAC 25.061(c) – Well Site Surveys
- add — 20 AAC 25.066(d) – Gas Detection (newly adopted wording) *repeated*
- ~~20 AAC 25.071(e) – Geologic Data and Logs~~
- ~~20 AAC 25.072(b) – Temporary Shutdown of Drilling or Completion Operations (“waive the requirements...”)~~
- ~~20 AAC 25.110(d)(2) – Suspended Wells (“the commission will waive the requirement...”)~~
- ✓ 20 AAC 25.112(i) – Well Plugging Requirements
- ~~20 AAC 25.172(a) – Offshore Location Clearance (“waive requirements of this subsection”)~~
- ✓ 20 AAC 25.228(j) – Production Measurement Equipment for Custody Transfer
- ~~20 AAC 25.240(b) and (c) – Gas-Oil Ratio Limitations~~
- ✓ 20 AAC 25.265(a)(2) – Automatic Shut-in Equipment (“unless another type ...is approved by the commission”)
- ~~20 AAC 25.280(e) – Workover Operations~~
- ✓ 20 AAC 25.285(h) – Secondary Well Control for Tubing Workover Operations: Blowout Prevention Equipment Requirements
- ✓ 20 AAC 25.286(g) – Well Control Requirements for Workstring Service Operations
- ✓ 20 AAC 25.287(f) – Well Control Equipment for Wireline Operations
- ~~20 AAC 25.450(a) – Underground Injection Control Variances (“authorize requirements...less stringent than the requirements in this chapter...”)~~
- ~~20 AAC 25.450(b) – Underground Injection Control Variances (“may be operated with less stringent requirements...”)~~





Office of the Attorney General

Oil, Gas & Mining Section

1031 W. 4th Avenue, Suite 200

Anchorage, AK 99501-1994

Phone: (907) 269-5255

Fax: (907) 279-8644

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To:

Commissioner

Fax #:

From:

Rob Mintz

Date:

9/16/03

Subject:

SB 185

Pages:

10

including
cover sheet

Message:

Jody asked what should
be done about Unocal's application
under SB 185. Here are
my thoughts.

RECEIVED

SEP 16 2003

Alaska Oil & Gas Cons. Commission
Anchorage

If you do not receive all the pages or have any problems with
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What to Do About Unocal's Request to Certify
Reductions in Oil Platform Production Volumes under SB 185

SB 185 (pertinent excerpts of which are attached) provides for royalty reductions when oil production from certain Cook Inlet fields or platforms falls below prescribed limits. This bill took effect on September 9. Although DNR administers the royalty provisions, the Commission is the agency that certifies the declines in oil production volumes. As added by SB 185, AS 31.05.030(j) provides:

→ *we mean*

The commission shall certify to the Department of Natural Resources the volume of oil production from a field or platform for the purpose of AS 38.05.180(f)(6)(A), (E), and (G).

In July, Unocal wrote the Commission requesting that qualifying platforms be "automatically certified" and stating specifically that the Baker and Bruce platforms qualified. I don't know what "automatically certified" means, but from speaking to Steve McMains I understand that the Baker and Bruce have been producing at levels below the statutory thresholds. (I believe Baker has been shut in recently – if so, Unocal should probably be asked to update its request.)

How should the Commission respond to Unocal's request? There are procedural choices about how to implement the Commission's function under SB 185, and there are also choices about what factual inquiries should go into making the "certification" called for under the legislation. Finally, there are timing questions to resolve.

I. Procedural Issues

A. Need for regulations

As discussed in my previous communications regarding implementation of SB 185 and regarding the superior court decision in the *Greenpeace* case, the Commission needs to have regulations addressing the procedures to follow when making certifications under AS 31.05.030(j). First of all, AS 31.05.040(a) provides that the "commission shall adopt *regulations* governing practice and procedure before it under this chapter." (Emphasis supplied.) Second, if we generalize from the court's opinion in *Greenpeace*, certifications under AS 31.05.030(j) are a species of "action" that under AS 31.05.060(b) "must be performed *in accordance with regulations* of the commission designed to afford persons affected by the action notice and an opportunity to be heard." (Emphasis supplied.)

One approach would be to interpret the existing notice and hearing regulations in 20 AAC 25.540 as applying to these certifications. This has the advantage of being ready-made. However, it does require 30 days public notice before the Commission can act. (This may or may not be an immediate problem – see below on timing.) Also, for the reasons explained below, the Commission would probably want to supplement sec. 540 to provide for direct notice to DNR and to other lessees when requests for certifications are made.

If the Commission would prefer different, perhaps less formal procedures for certifications than those set out in sec. 540, it can certainly propose and adopt regulations to accomplish that. The problem is that the timing of Unocal's application calls for action before such regulations can take effect. In the interim, to use procedures other than those of 20 AAC 25.540, the Commission would have to (a) interpret sec. 540 as *not* covering certifications and (b) justify following different *ad hoc* procedures despite the apparent statutory requirements to set out procedures in regulation.

Perhaps (a) could be accomplished by pointing to the fact that 20 AAC 25.540(a) concerns requests "to issue an order," and by interpreting "order" as implying a more formal type of Commission action than "certify[ing]" a volume under AS 31.05.030(j). Perhaps (b) could be accomplished by pointing to the fact that there is necessarily a lag between when a new statutory authority takes effect and when implementing regulations take effect, and that the Commission is obligated to act on Unocal's request in the meantime, leaving it no option other than to come up with *ad hoc* procedures. This approach is more risky than following sec. 540, but it is probably a reasonable option.

B. Content of procedures

If the Commission decides it would prefer other procedures than those in sec. 540, what should they be? As I understand it, the process of determining volumes under AS 31.05.030(j) is pretty simple and straightforward, and in general there is probably no need for input from the lessee beyond what would be in the written request for a certification. The main thing is to ensure that those "affected by the action" be afforded "notice and an opportunity to be heard." AS 31.05.060(b).

Unlike most Commission actions, which deal with an *operator*, certifications under AS 31.05.030(j) directly affect *lessees*. As such, probably every lessee that produces through the same platform or has an ownership interest in the same field which a request for certification concerns should receive notice of the request. Also, DNR is clearly affected because its royalties stand to be reduced. So DNR should also receive notice. In line with the Commission's

previous holdings, this should be the obligation of the applicant. (Note: even if the Commission decides to follow sec. 540 in handling Unocal's application, it should require Unocal to notify other lessees and DNR.)

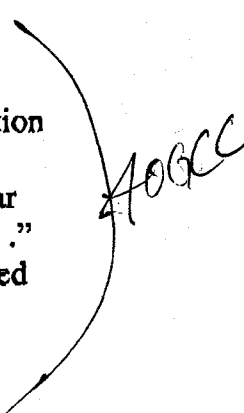
Perhaps the simplest way to provide "an opportunity to be heard" to all concerned – including the applicant, other lessees, and DNR – would be for the Commission to respond to an application for certification by internally developing a proposed certification decision and then circulating that proposed decision to the lessees and DNR, allowing them a certain amount of time to comment or object in writing. Then the Commission would issue its final decision.

Alternatively, the lessees and DNR could be given a certain amount of time, e.g., 10 days, within which to comment when they are notified of the application. Then the Commission would issue its final decision, without first circulating a proposed decision.

Although unlikely, I suppose it is conceivable that there could be a serious factual dispute – e.g., if the operator's reported volumes for a platform depended on allocation from periodic well tests and the Commission or DNR questioned the well tests or the allocation (see below). In that event, the procedures might provide for a hearing to be held in accordance with the procedures set out in sec. 540.

II. Factual Inquiries

SB 185 provides for royalty reduction when, for example, "oil production that equaled or exceeded a volume of 1,200 barrels a day [from a specified platform] declines to less than that amount for a period of at least one calendar quarter, *as certified by the Alaska Oil and Gas Conservation Commission . . .*" AS 38.05.180(f)(6)(A) (emphasis supplied). Such volumes are to be calculated "based on the average daily production during the calendar quarter." AS 38.05.180(f)(6)(I).



A basic question is whether the Commission should make such certifications solely on the basis of the operator's production reports (on Form 10-405) or whether the Commission should look behind the reports to verify their accuracy. I don't know enough to have an opinion on this question. I can, however, point to several provisions in the Commission's regulations that suggest factual inquiries that could be made if the Commission wished to do so. First, has the operator complied with the production measurement requirements of 20 AAC 25.228? Second, in the case of a platform whose produced fluids are commingled with produced fluids from one or more other platforms before

separation and LACT metering, has the operator complied with the well testing and allocation requirements of 20 AAC 25.230?

My impression from the informal legislative history of the bill is that DNR contemplated that the Commission would just rely on the operator's production reports, but perhaps this could be checked into further.

III. Timing

The first whole month occurring after the effective date of SB 185 is October, and I understand that DNR would apply a change in royalty rates only at the beginning of a month. From my conversation with DNR's royalty accounting manager, I understand that DNR is anticipating that one or more platforms might qualify for a royalty reduction beginning in October, based on the Commission's certifying the production volumes for the July – September 2003 calendar quarter. To allow for timely royalty calculation and reporting for October (which is due in late November), the Commission's certification decisions would be needed by early November.

It is conceivable that Unocal might have a different interpretation of how timing should work under SB 185, but what is described in the preceding paragraph seems right to me.

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(LIMITED RUN FOR ALL ADDITIONAL SPONSORSHIPS)

HOUSE CS FOR CS FOR SENATE BILL NO. 185(O&G) am H
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS**Amended: 5/19/03****Offered: 5/18/03****Sponsor(s): SENATORS WAGONER, Wilken, Ben Stevens, Dyson****REPRESENTATIVES Chenault, Kohring****A BILL****FOR AN ACT ENTITLED**

1 "An Act providing for a reduction of royalty on certain oil produced from Cook Inlet
2 submerged land, and for a credit for certain exploration expenses against oil and gas
3 properties production taxes on oil and gas produced from a lease or property in the
4 state."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * Section 1. AS 31.05.030 is amended by adding a new subsection to read:

7 (j) The commission shall certify to the Department of Natural Resources the
8 volume of oil production from a field or platform for the purposes of
9 AS 38.05.180(f)(6)(A), (C), (E), and (G).

10 * Sec. 2. AS 38.05.180(f) is amended by adding a new paragraph to read:

11 (6) notwithstanding and in lieu of a requirement in the leasing method
12 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases
13 unitized as described in (p) of this section, leases subject to an agreement described in
14 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of

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1 an oil field located offshore in Cook Inlet on which an oil production platform
2 specified in (A), (C), or (E) of this paragraph operates, or the lessee of all or part of the
3 field located offshore in Cook Inlet and described in (G) of this paragraph,

4 (A) shall pay a royalty of five percent on oil produced from the
5 platform if oil production that equaled or exceeded a volume of 1,200 barrels a
6 day declines to less than that amount for a period of at least one calendar
7 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for
8 as long as the volume of oil produced from the platform remains less than
9 1,200 barrels a day; the provisions of this subparagraph apply to

10 (i) Dolly;

11 (ii) Grayling;

12 (iii) King Salmon;

13 (iv) Steelhead; and

14 (v) Monopod;

15 (B) shall pay a royalty calculated under this subparagraph if the
16 volume of oil produced from the platform that was certified by the Alaska Oil
17 and Gas Conservation Commission under (A) of this paragraph later increases
18 to 1,200 or more barrels a day and remains at 1,200 or more barrels a day for a
19 period of at least one calendar quarter; until the royalty rate determined under
20 this subparagraph applies, the royalty continues to be calculated under (A) of
21 this paragraph; on and after the first day of the month following the month the
22 increased production exceeds the period specified in this subparagraph, the
23 royalty payable under this subparagraph is

24 (i) for production of at least 1,200 barrels a day but not
25 more than 1,300 barrels a day - seven percent;

26 (ii) for production of more than 1,300 barrels a day but
27 not more than 1,400 barrels a day - 8.5 percent;

28 (iii) for production of more than 1,400 barrels a day but
29 not more than 1,500 barrels a day - 10 percent; and

30 (iv) for production of more than 1,500 barrels a day -
31 12.5 percent;

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1 (C) shall pay a royalty of five percent on oil produced from the
2 platform if oil production that equaled or exceeded a volume of 975 barrels a
3 day declines to less than that amount for a period of at least one calendar
4 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for
5 as long as the volume of oil produced from the platform remains less than 975
6 barrels a day; the provisions of this subparagraph apply to

7 (i) Baker;

8 (ii) Dillon;

9 (iii) XTO.A; and

10 (iv) XTO.C;

11 (D) shall pay a royalty calculated under this subparagraph if the
12 volume of oil produced from the platform that was certified by the Alaska Oil
13 and Gas Conservation Commission under (C) of this paragraph later increases
14 to 975 or more barrels a day and remains at 975 or more barrels a day for a
15 period of at least one calendar quarter; until the royalty rate determined under
16 this subparagraph applies, the royalty continues to be calculated under (C) of
17 this paragraph; on and after the first day of the month following the month the
18 increased production exceeds the period specified in this subparagraph, the
19 royalty payable under this subparagraph is

20 (i) for production of at least 975 barrels a day but not
21 more than 1,100 barrels a day - seven percent;

22 (ii) for production of more than 1,100 barrels a day but
23 not more than 1,200 barrels a day - 8.5 percent;

24 (iii) for production of more than 1,200 barrels a day but
25 not more than 1,350 barrels a day - 10 percent; and

26 (iv) for production of more than 1,350 barrels a day -
27 12.5 percent;

28 (E) shall pay a royalty of five percent on oil produced from the
29 platform if oil production that equaled or exceeded a volume of 750 barrels a
30 day declines to less than that amount for a period of at least one calendar
31 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for

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1 as long as the volume of oil produced from the platform remains less than 750
2 barrels a day; the provisions of this subparagraph apply to

3 (i) Granite Point;

4 (ii) Anna; and

5 (iii) Bruce;

6 (F) shall pay a royalty calculated under this subparagraph if the
7 volume of oil produced from the platform that was certified by the Alaska Oil
8 and Gas Conservation Commission under (E) of this paragraph later increases
9 to 750 or more barrels a day and remains at 750 or more barrels a day for a
10 period of at least one calendar quarter; until the royalty rate determined under
11 this subparagraph applies, the royalty continues to be calculated under (E) of
12 this paragraph; on and after the first day of the month following the month the
13 increased production exceeds the period specified in this subparagraph, the
14 royalty payable under this subparagraph is

15 (i) for production of at least 750 barrels a day but not
16 more than 850 barrels a day - seven percent;

17 (ii) for production of more than 850 barrels a day but
18 not more than 1,000 barrels a day - 8.5 percent;

19 (iii) for production of more than 1,000 barrels a day but
20 not more than 1,200 barrels a day - 10 percent; and

21 (iv) for production of more than 1,200 barrels a day -
22 12.5 percent;

23 (G) shall pay a royalty of five percent on oil produced from the
24 field if oil production that equaled or exceeded a volume of 750 barrels a day
25 declines to less than that amount for a period of at least one calendar quarter,
26 as certified by the Alaska Oil and Gas Conservation Commission, for as long
27 as the volume of oil produced from the field remains less than 750 barrels a
28 day; the provisions of this subparagraph apply to the West McArthur River
29 field;

30 (H) shall pay a royalty calculated under this subparagraph if the
31 volume of oil produced from the field that was certified by the Alaska Oil and

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1 Gas Conservation Commission under (G) of this paragraph later increases to
2 750 or more barrels a day and remains at 750 or more barrels a day for a period
3 of at least one calendar quarter; until the royalty rate determined under this
4 subparagraph applies, the royalty continues to be calculated under (G) of this
5 paragraph; on and after the first day of the month following the month the
6 increased production exceeds the period specified in this subparagraph, the
7 royalty payable under this subparagraph is

8 (i) for production of at least 750 barrels a day but not
9 more than 850 barrels a day - seven percent;

10 (ii) for production of more than 850 barrels a day but
11 not more than 1,000 barrels a day - 8.5 percent;

12 (iii) for production of more than 1,000 barrels a day but
13 not more than 1,200 barrels a day - 10 percent; and

14 (iv) for production of more than 1,200 barrels a day -
15 12.5 percent; and

16 (I) may obtain the benefits of the royalty adjustments set out in
17 (A) - (H) of this paragraph only if the commissioner determines that the
18 reduction in production from the platform or the field is

19 (i) based on the average daily production during the
20 calendar quarter based on reservoir conditions; and

21 (ii) not the result of short-term production declines due
22 to mechanical or other choke-back factors, temporary shutdowns or
23 decreased production due to environmental or facility constraints, or
24 market conditions.

25 * Sec. 3. AS 43.55 is amended by adding a new section to read:

26 **Sec. 43.55.025. Oil and gas exploration tax credit.** (a) Subject to the terms
27 and conditions of this section, on oil and gas produced on or after July 1, 2004, a
28 credit against the tax due under this chapter is allowed in an amount equal to

29 (1) 20 percent of the total exploration expenditures that qualify under
30 (b) and (c) of this section, 20 percent of the total exploration expenditures that qualify
31 under (b) and (d) of this section, or both, for a total credit that does not exceed 40

AGENCY CHECKLIST — "REGULAR" REGULATIONS

DRAFTING

- ☒ Discuss project timeline with legislation and regulations section if the project has an effective date deadline or other urgency or is lengthy or complex.
- ☒ Proposed regulations drafted and reviewed by agency in accordance with law and this manual.
- ☒ Prepare fiscal note, if necessary. Appendix F.
- ☒ Draft the public notice of proposed regulations; prepare additional regulations notice information. Public notice must include: (1) references to statutory authority and statutes being implemented, interpreted, or made specific; (2) informative summary (not text) of regulations; (3) summary of fiscal information; (4) deadline and address for submission of written comments (if an oral hearing is held, the time, date, and place of the hearing); and (5) any information required by the relevant program statute. Appendices D and E.
- ☒ Request the regulations attorney to open Department of Law file (Appendix G) and agency attorney review of draft regulations and draft public notice.

PUBLICATION AND DISTRIBUTION OF NOTICE

- ☒ Published in newspaper(s) of general circulation or trade journal(s); request return of affidavit of publication from newspapers and trade journals.
- ☒ Furnished to the head of the department in which adopting agency is located (if adopting agency is not a principal department).
- ☒ Furnished to all persons on "interested persons" list and others thought to be interested.
- ☒ Furnished to the regulations attorney in the Department of Law (along with proposed regulations).
- ☒ Electronically transmitted to all incumbent (and newly elected) state legislators; furnished to Legislative Affairs Agency (library).
- ☒ Additional regulations notice information sent with notice to interested persons, legislators, Legislative Affairs Agency (library), and regulations attorney. Appendix E.
- ☒ Notice and additional regulations notice information posted on the Alaska Online Public Notice System.
- ☐ Prepare affidavit of notice of proposed regulation adoption. Appendix H.

PUBLIC COMMENT

- ☐ Written comments collected.
- ☐ Oral public hearing, if any, conducted; prepare affidavit of oral hearing. Appendix I.
- ☐ Written comments and any oral comments received before deadline are carefully considered, including comments on costs of compliance to private persons.
- ☐ Use or rejection of written comments is documented (not applicable to boards and commissions).

ADOPTION OF REGULATIONS

- ☐ Final version of regulations is prepared in proper final format (see pp. 65 - 69 of Ch. 7 and sample regulations in Appendix C).
- ☐ Agency formally adopts regulations by signing adoption order or, for a board or commission, voting to adopt during a properly noticed public meeting; certification order prepared, if appropriate. Appendices J and L. Delegation attached, if required. Appendices O and P. Designation as "acting commissioner" attached, if required.
- ☐ Relevant portion of minutes of board or commission meeting and staff affidavit prepared, if certification order was signed. Appendices M and N.
- ☐ Affidavit of agency record of public comment prepared (Appendix K) (not applicable to boards and commissions).

TRANSMITTAL TO DEPARTMENT OF LAW

- ☐ Completed project is sent to the regulations attorney in the Department of Law. Transmittal must include:
 - ☐ 1. cover memo to the regulations attorney stating the Department of Law file number, any particular issues regarding the project, noting any urgency or requested effective date, and requesting review and approval; Appendix Q;
 - ☐ 2. original and one copy of final version of regulations for Department of Law's use;

- _____ 3. one copy of final version of regulations and public notice for the governor's office use (not applicable to boards and commissions);
- _____ 4. original signed adoption order or certification order;
- _____ 5. a copy of any delegation of authority or "acting commissioner" designation;
- _____ 6. relevant minutes of board or commission meeting and staff affidavit, if a certification order is being submitted;
- _____ 7. a full-size original or copy of public notice;
- _____ 8. additional regulations notice information form that was distributed with the public notice;
- _____ 9. fiscal note, if required;
- _____ 10. original affidavit of notice of proposed regulation adoption;
- _____ 11. original publishers' affidavits of publication;
- _____ 12. original affidavit of oral hearing, if one was held;
- _____ 13. original affidavit of agency record of public comment (not applicable to boards and commissions);
- _____ 14. any other relevant documents (such as material adopted by reference).

FILING AND EFFECTIVE DATES

_____ Date of Department of Law approval of regulations.

_____ Date regulations filed by the lieutenant governor's office, unless returned under AS 44.62.040(c), if applicable.

_____ Effective date of regulations.

_____ Summary of text of filed regulations, indicating the effective date, posted on the Alaska Online Public Notice System.